

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 35962 & 35963

STATE OF IDAHO,)	2009 Unpublished Opinion No. 610
)	
Plaintiff-Respondent,)	Filed: September 17, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
LEONARD REISINGER, JR.,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County. Hon. John K. Butler, District Judge.

Judgment of conviction and concurrent unified sentences of five years, with minimum periods of confinement of four years, for possession of a financial transaction card and judgment of conviction and consecutive indeterminate sentence of fourteen years for forgery, affirmed; orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sara B. Thomas, Chief, Appellate Unit, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, PERRY, Judge
and GUTIERREZ, Judge

PER CURIAM

In Docket No. 35963, Reisinger pled guilty to two counts of possession of a financial transaction card. I.C. §§ 18-2403(4), 18-2407(1)(b)(1). In exchange for his guilty plea, additional charges including an allegation that Reisinger was a persistent violator, were dismissed. In Docket No. 35962, Leonard Reisinger, Jr. pled guilty to forgery. I.C. § 18-3601. In exchange for his guilty plea, additional charges, including an allegation that Reisinger was a persistent violator, were dismissed.

The district court sentenced Reisinger to concurrent unified five-year terms, with minimum periods of confinement of four years, for the two counts of possession of a financial transaction card, to also run concurrent with another unrelated sentence. The district court sentenced Reisinger to an indeterminate term of fourteen years for forgery to run consecutive to his sentences for possession of a financial transaction card. Reisinger filed I.C.R. 35 motions for reduction of his sentences, which the district court denied. Reisinger appeals.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Next, we review whether the district court erred in denying Reisinger's Rule 35 motion. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73. Upon review of the record, we conclude no abuse of discretion has been shown.

Therefore, Reisinger's judgment of conviction and concurrent unified sentences of five years, with minimum periods of confinement of four years, for possession of a financial transaction card; Reisinger's judgment of conviction and consecutive indeterminate sentence of fourteen years for forgery; and the district court's orders denying Reisinger's Rule 35 motions are affirmed.